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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 3rd day of April 1998

BEFORE

THE HON'BLE Mr. JUSTICE V.K. SINGHAL

WRIT PETITION NO.13679/91 C/W.WP.18023/91

Between

M/s.G.P.S.International Motion
Picture Producers,
a partnership firm, 938, 1st Stage, 2nd Block,
Banashankari, Bangalore-50
represented by its Partner Santhosh
ASHINDE, s/o Ashok Shinde, aged about 27 years,
r/o Bangalore ..Petitioner in
WP.13679/91

Gopal Theatres
a Partnership Firm represented
by its Partner S.M.Narayan Kumar,
s/o late S.Chikkananjundappa,
aged about 53 years,
resident of Doddaballapura,
Bangalore Dist. ..Petitioner in
WP.18023/91

(Sri M.R.Naik, Advocate)
And:

1. The State of Karnataka rep. by its Secretary
Dept. of Finance (Commercial Taxes)
Vidhana Soudha, Bangalore-1.
2. The Commr. of Comm. Taxes, Gandhinagar,
Bangalore-9.
3. The Director, Information & Publicity Dept.
Vishveswaraiah Towers, Vidhana Veedhi,
Bangalore-1. ..Respondents common in
both petitions
4. Entertainment Tax Officer, Doddaballapura,
Bangalore Dist.
5. Asst. Comm. Tax Officer, Mobile Squad III,
Office of the Dy. Commr. of Comm. Taxes (Intelligence)
Darusalam Complex, Queens Road, Bangalore.
..Respondents in
WP.18023/91

(Sri Shivayogiswamy, HCCP)

Writ petitions are filed praying to quash the impugned endorsement dated 20-4-91 - Annexure D and 1.8.1991 - Annexure-E in No.VH/537/91-92 respectively.

These writ petitions coming on for hearing today, the Court made the following:

ORDER

In both the petitions, the petitioner is aggrieved by the action of the respondents in granting 50% concession ^{from} from the date of the order and not from the date of release ^{of film}. Provisions for concession exist under Section 3C(1)(a) of the Karnataka Entertainment Tax Act, 1958. The film if it is produced in the State of Karnataka the entertainment tax is payable at one ~~and~~ half of the rate specified therein. If the film is produced outside the State before 31st day of December 1987 then ~~then~~ Entertainment Tax is also half of the rate of tax.

2. The case of the petitioner was examined by the State Government and it was found that the concession under Section 3(c)(1)(a) can be ^{as a special case} given, and on that basis concession was given from the date of the order. Request for grant of concession ~~with the~~ prospectively i.e., from the date of release ^{of film} was not accepted, by the Government

in pursuance of the letter written by the President, Karnataka Film Chamber of Commerce. In the assessment order, demand was created for the period from the date of release of film to the date of the order of the Government. It is submitted by the learned Counsel for the respondents that the petitioner is not eligible for the concession at all. As 39% film was prepared outside the State.

3. I have considered over the matter. The question of eligibility is not in dispute before me. If the respondents come to the conclusion that the petitioner in each of the petitions is entitled for concession in accordance with the provisions of Section 3(c)(1)(a) then the conditions as specified in the said Section have only to be implemented. There is no such condition in the section that the exemption would be only from the date of the order and not from the date of its release. Rule 47(b) has contemplated only furnishing of the certificate. If the respondents have come to the conclusion that the petitioner is entitled for the concession then the words 'from the date of order' cannot be inserted in the provisions of Section 3(c)(1)(a) of the Act. Under the circumstances, I do not consider that there is any justification in refusing the concession to the petitioner from the date of release of the ^{film} ~~date of order~~.

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The writ petition is accordingly allowed.

4. The learned Counsel for the petitioner has stated that the tax has not been collected ^{So far} in the disputed period at full rate. The Assessing Authority may verify this fact on the documents available in his Office. The learned Counsel for the petitioner has undertaken to deposit the amount if it is found collected more than 50% in the disputed period.



Sd/-
JUDGE

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